

4-3-06

27W
AP

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031


U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO TRANSMITTAL FORM (to be used for all correspondence after initial filing) MAR 31 2006 PATENT & TRADEMARK OFFICE	Application Number	09/295,463
	Filing Date	April 13, 1999
	First Named Inventor	Lex M. Cowser
	Art Unit	1631
	Examiner Name	Marjorie A. Moran
Total Number of Pages in This Submission	Attorney Docket Number	ISIS0231-100 (ISIS-3455)

EV51356446US

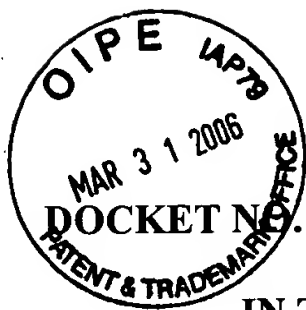
ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Express Mail No. EV51356446US Date of Deposit: <u>March 31, 2006</u>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm	Cozen O'Connor, P.C.		
Signature			
Printed Name	Paul K. Legaard		
Date	March 31, 2006	Reg. No.	38,534

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



DOCKET NO.: ISIS0231-100 (ISIS-3455)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: **Cowsert, Baker, McNeil, Freier, Sasnor, Brooks, Ohashi, Wyatt, Borchers, and Vickers**

Confirmation No: **7206**

Serial No: **09/295,463**

Group Art Unit: **1631**

Filed: **April 13, 1999**

Examiner: **Marjorie A. Moran**

For: **Identification Of Genetic Targets For Modulation By Oligonucleotides And Generation Of Oligonucleotides For Gene Modulation**

EXPRESS MAIL INFORMATION

EXPRESS MAIL LABEL NO: EV 513564446 US

DATE OF DEPOSIT: 31 MARCH 2006

Mail Stop Appeal Brief - Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COMMUNICATION

The present Communication is filed in response to the Notification of Non-Compliant Appeal Brief ("Notification") dated March 2, 2006. Appellants believe the Notification was mistakenly issued.

The Notification states in paragraph 2 that the "brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims..." Appellants' Appeal Brief filed February 14, 2006, in fact, states at page 4 under the heading "Status of Claims":

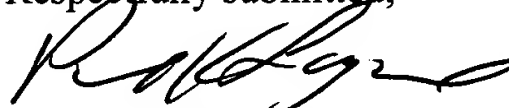
Claims 1-54, 57, 73, 77, 84, 88-98, and 103 are cancelled. Claims 55, 56, 58-72, 74-76, 78-83, 85-87, and 99-102 (i.e., all remaining claims) are pending, rejected, and now on appeal -- the appealed claims appear in the Claims Appendix.

Thus, this passage of Appellants' Appeal Brief quite clearly indicates the status of all claims (e.g., claims 1-103) as either canceled or rejected. In addition, this passage quite clearly indicates that the claims on appeal are claims 55, 56, 58-72, 74-76, 78-83, 85-87, and 99-102. Thus Appellants' Appeal Brief fully complies with 37 CFR 41.37(c)(1)(iii).

The Notification also states in paragraph 10 that the "brief contains a listing of only claims 55-56, 58-72, 74-76, 78-83, 85-87 and 99-102. There is no statement indicating the status of any other claims." As stated above, however, the status of **ALL** claims has been quite clearly pointed out in Appellants' Appeal Brief. If the Examiner is suggesting that the "Claims Appendix" listed in section VIII of the Appeal Brief must contain a listing of the non-appealed claims as well as the appealed claims, Appellants respectfully point out that MPEP 1205.02 mandates that a copy of the claims **involved** in the appeal be included in the Claims Appendix. Claims 55, 56, 58-72, 74-76, 78-83, 85-87, and 99-102 (i.e., those claims involved in the appeal) have, in fact, quite clearly been listed in the Claims Appendix.

In view of the foregoing, Appellants' Appeal Brief filed February 14, 2006 fully complies with 37 CFR 41.37. Accordingly, Appellants respectfully request that the Notification be withdrawn.

Respectfully submitted,



Paul K. Legaard, Ph.D.

Registration No. 38,534

Date: **31 March 2006**

Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103
Tel: (215) 665-6914
Fax: (215) 701-2141